

---

By: **Delegates Menes, Conroy, and Owings**  
Introduced and read first time: February 12, 2004  
Assigned to: Economic Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Homeowner's Insurance - Premium Increases - Notice**

3 FOR the purpose of requiring insurers of homeowner's insurance policies to provide  
4 written notice to an insured regarding policy premium increases, policy  
5 reductions, policy cancellations, and nonrenewals under certain circumstances;  
6 requiring the notice to be on a certain form; requiring the notice to include  
7 certain information; requiring the reason for an insurer proposing to take an  
8 action to be sufficiently clear and specific; authorizing an insured to protest an  
9 action of an insurer under certain circumstances; requiring the Insurance  
10 Commissioner to take certain actions regarding protests under certain  
11 circumstances; authorizing a stay of an insurer's proposed action under certain  
12 circumstances; establishing that a dismissal of a protest or disallowance of a  
13 premium increase is a final determination under certain circumstances;  
14 requiring the Commissioner to make certain determinations under certain  
15 circumstances; authorizing certain persons to request a hearing under certain  
16 circumstances; providing the hearing format; requiring the Commissioner to  
17 issue a certain order under certain circumstances; authorizing the  
18 Commissioner to delegate certain powers to certain individuals under certain  
19 circumstances; providing for the return of disallowed premiums under certain  
20 circumstances; providing for the payment of interest on disallowed premiums  
21 under certain circumstances; authorizing a party to appeal a certain decision  
22 under certain circumstances; providing for the application of this Act; and  
23 generally relating to homeowner's insurance.

24 BY repealing and reenacting, with amendments,  
25 Article - Insurance  
26 Section 27-604 and 27-609(a)  
27 Annotated Code of Maryland  
28 (2002 Replacement Volume and 2003 Supplement)

29 BY adding to  
30 Article - Insurance  
31 Section 27-610  
32 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Insurance**

5 27-604.

6 (a) This section does not apply to:

7 (1) life insurance;

8 (2) health insurance;

9 (3) motor vehicle liability insurance issued to a resident of a household  
10 in the State as set forth in § 27-605 of this subtitle;

11 (4) surety insurance;

12 (5) insurance written or issued by the Maryland Automobile Insurance  
13 Fund; [or]

14 (6) an insurer that satisfies the Commissioner that it cannot reasonably  
15 comply with the notice requirement in connection with certain risks or lines of  
16 business; OR

17 (7) HOMEOWNER'S INSURANCE ISSUED IN THE STATE AS SET FORTH IN  
18 § 27-610 OF THIS SUBTITLE.

19 (b) Whenever an insurer intends to increase a premium for a particular policy  
20 written in the State by 20% or more, the insurer shall notify the insured and  
21 insurance producer of the increase.

22 (c) The notice shall be sent by first-class mail to the insured and insurance  
23 producer at least 45 days before the effective date of the proposed premium increase.  
24 27-609.

25 (a) (1) If an insurer fails to comply with any provision of § 27-601, § 27-602,  
26 § 27-603, § 27-604, § 27-605, [or] § 27-607, OR § 27-610 of this subtitle, the insurer  
27 is liable to the applicant for the coverage that was requested, or that would have  
28 become effective except for the failure to comply with these provisions, unless the  
29 person seeking coverage:

30 (i) no longer wishes the coverage;

31 (ii) has obtained other substantially equivalent coverage; or

32 (iii) fails to tender or pay the premium after reasonable demand for  
33 the premium has been made.

1 (2) The liability of an insurer under paragraph (1) of this subsection is in  
2 addition to any other penalties applicable by law.

3 27-610.

4 (A) (1) EXCEPT AS PROVIDED IN THIS SECTION, WITH RESPECT TO A POLICY  
5 OF HOMEOWNER'S INSURANCE ISSUED IN THE STATE, AN INSURER MAY NOT:

6 (I) INCREASE A PREMIUM FOR ANY COVERAGE ON THE POLICY;

7 (II) REDUCE COVERAGE UNDER THE POLICY;

8 (III) CANCEL THE POLICY FOR A REASON OTHER THAN  
9 NONPAYMENT OF PREMIUM; OR

10 (IV) FAIL TO RENEW THE POLICY.

11 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE  
12 REQUIREMENTS OF THIS SECTION DO NOT APPLY IF:

13 (I) THE PREMIUM INCREASE DESCRIBED IN PARAGRAPH (1)(I) OF  
14 THIS SUBSECTION IS PART OF A GENERAL INCREASE IN PREMIUMS APPROVED BY  
15 THE COMMISSIONER;

16 (II) THE REDUCTION IN COVERAGE DESCRIBED IN PARAGRAPH  
17 (1)(II) OF THIS SUBSECTION IS PART OF A GENERAL REDUCTION IN COVERAGE  
18 APPROVED BY THE COMMISSIONER; OR

19 (III) THE FAILURE TO RENEW THE POLICY TAKES PLACE UNDER A  
20 PLAN OF WITHDRAWAL THAT:

21 1. IS APPROVED BY THE COMMISSIONER UNDER § 27-603 OF  
22 THIS SUBTITLE; AND

23 2. PROVIDES THAT EACH INSURED AFFECTED BY THE PLAN  
24 OF WITHDRAWAL SHALL BE SENT BY CERTIFICATE OF MAILING AT LEAST 45 DAYS  
25 BEFORE THE NONRENEWAL OF THE POLICY A WRITTEN NOTICE THAT STATES THE  
26 DATE THAT THE POLICY WILL BE NONRENEWED AND THAT THE NONRENEWAL IS  
27 THE RESULT OF THE WITHDRAWAL OF THE INSURER FROM THE MARKET.

28 (B) AT LEAST 45 DAYS PRIOR TO THE EXPIRATION OF A POLICY OF  
29 HOMEOWNER'S INSURANCE, AN INSURER THAT INTENDS TO TAKE AN ACTION  
30 SUBJECT TO THIS SECTION MUST SEND WRITTEN NOTICE OF ITS PROPOSED ACTION  
31 TO THE INSURED AT THE LAST KNOWN ADDRESS OF THE INSURED:

32 (1) FOR NOTICE OF CANCELLATION OR NONRENEWAL, BY CERTIFIED  
33 MAIL; AND

34 (2) FOR ALL OTHER NOTICES OF ACTIONS SUBJECT TO THIS SECTION,  
35 BY CERTIFICATE OF MAILING.

1 (C) THE NOTICE MUST BE IN TRIPPLICATE AND ON A FORM APPROVED BY THE  
2 COMMISSIONER.

3 (D) THE NOTICE MUST STATE IN CLEAR AND SPECIFIC TERMS:

4 (1) FOR A PREMIUM INCREASE:

5 (I) THE AMOUNT OF THE PREMIUM INCREASE IN COMPARISON TO  
6 THE PREMIUM CHARGED IN THE PREVIOUS YEAR;

7 (II) THE REASON FOR THE INCREASE, INCLUDING BUT NOT  
8 LIMITED TO, THE DELETION OF A LOSS-FREE CREDIT, THE APPLICATION OF A  
9 CLAIM-RELATED SURCHARGE, OR ANY OTHER REASON RELATED TO A CLAIM OR  
10 POLICYHOLDER INQUIRY; AND

11 (III) THE TELEPHONE NUMBER OF THE INSURER'S  
12 REPRESENTATIVES WHO HANDLE CONSUMER INQUIRIES OR COMPLAINTS;

13 (2) FOR A REDUCTION IN COVERAGE:

14 (I) THE TYPE OF COVERAGE REDUCED; AND

15 (II) THE EXTENT OF THE REDUCTION;

16 (3) FOR NONRENEWAL OF A POLICY:

17 (I) THE REASON OR REASONS FOR THE NONRENEWAL; AND

18 (II) THE TELEPHONE NUMBER OF THE INSURER'S  
19 REPRESENTATIVES WHO HANDLE CONSUMER INQUIRIES OR COMPLAINTS;

20 (4) THE RIGHT OF THE INSURED TO PROTEST THE PROPOSED ACTION OF  
21 THE INSURER AND, EXCEPT IN THE CASE OF A PREMIUM INCREASE THAT IS  
22 CONSISTENT WITH THE INSURER'S RATE FILING WITH THE COMMISSIONER AND  
23 AUTHORIZED UNDER THE APPLICABLE PROVISIONS OF TITLE 11 OF THIS ARTICLE,  
24 REQUEST A HEARING BEFORE THE COMMISSIONER ON THE PROPOSED ACTION BY  
25 SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM TO THE COMMISSIONER  
26 WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE;

27 (5) THAT IF A PROTEST IS FILED BY THE INSURED, THE INSURER MUST  
28 MAINTAIN THE CURRENT INSURANCE IN EFFECT UNTIL A FINAL DETERMINATION IS  
29 MADE BY THE COMMISSIONER, SUBJECT TO THE PAYMENT OF ANY AUTHORIZED  
30 PREMIUM DUE OR BECOMING DUE BEFORE THE DETERMINATION;

31 (6) THE AUTHORITY OF THE COMMISSIONER TO AWARD REASONABLE  
32 ATTORNEY FEES TO THE INSURED FOR REPRESENTATION AT A HEARING IF THE  
33 COMMISSIONER FINDS THE PROPOSED ACTION OF THE INSURER TO BE  
34 UNJUSTIFIED; AND

1           (7)     THAT THE INSURED MAY BE ABLE TO OBTAIN COVERAGE FROM THE  
2 JOINT INSURANCE ASSOCIATION AND THE CURRENT ADDRESS AND TELEPHONE  
3 NUMBER OF THE JOINT INSURANCE ASSOCIATION.

4     (E)     THE INSURER'S STATEMENT OF ACTUAL REASON FOR PROPOSING TO  
5 TAKE AN ACTION SUBJECT TO THIS SECTION MUST BE SUFFICIENTLY CLEAR AND  
6 SPECIFIC SO THAT AN INDIVIDUAL OF AVERAGE INTELLIGENCE CAN IDENTIFY THE  
7 BASIS FOR THE INSURER'S DECISION WITHOUT MAKING FURTHER INQUIRY.

8     (F)     AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL  
9 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL SEND TO THE  
10 INSURED, BY CERTIFICATE OF MAILING, A WRITTEN NOTICE OF INTENTION TO  
11 CANCEL FOR NONPAYMENT OF PREMIUM.

12    (G)    (1)     THIS SUBSECTION DOES NOT APPLY TO AN ACTION OF AN INSURER  
13 TAKEN UNDER SUBSECTION (F) OF THIS SECTION.

14           (2)     AN INSURED MAY PROTEST A PROPOSED ACTION OF THE INSURER  
15 UNDER THIS SECTION BY SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM  
16 TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

17           (3)     ON RECEIPT OF A PROTEST, THE COMMISSIONER SHALL NOTIFY THE  
18 INSURER OF THE FILING OF THE PROTEST.

19           (4)     EXCEPT FOR A PREMIUM INCREASE OF 15% OR LESS FOR THE ENTIRE  
20 POLICY, A PROTEST FILED WITH THE COMMISSIONER STAYS THE PROPOSED ACTION  
21 OF THE INSURER PENDING A FINAL DETERMINATION BY THE COMMISSIONER.

22           (5)    (I)     EXCEPT FOR A PREMIUM INCREASE OF 15% OR LESS FOR THE  
23 ENTIRE POLICY, THE INSURER SHALL MAINTAIN IN EFFECT THE SAME COVERAGE  
24 AND PREMIUM THAT WERE IN EFFECT ON THE DAY THE NOTICE OF PROPOSED  
25 ACTION WAS SENT TO THE INSURED UNTIL A FINAL DETERMINATION IS MADE,  
26 SUBJECT TO THE PAYMENT OF ANY AUTHORIZED PREMIUM DUE OR BECOMING DUE  
27 BEFORE THE DETERMINATION.

28                   (II)    IN THE CASE OF A PREMIUM INCREASE, A DISMISSAL OF THE  
29 PROTEST OR DISALLOWANCE OF THE PREMIUM INCREASE IS DEEMED TO BE A FINAL  
30 DETERMINATION OF THE COMMISSIONER 20 DAYS AFTER THE MAILING DATE OF THE  
31 COMMISSIONER'S NOTICE OF ACTION.

32    (H)    (1)     BASED ON THE INFORMATION CONTAINED IN THE NOTICE, THE  
33 COMMISSIONER:

34                   (I)     SHALL DETERMINE WHETHER THE PROTEST BY THE INSURED  
35 HAS MERIT; AND

36                   (II)    EITHER SHALL DISMISS THE PROTEST OR DISALLOW THE  
37 PROPOSED ACTION OF THE INSURER.

1 (2) THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE  
2 INSURED OF THE ACTION OF THE COMMISSIONER PROMPTLY IN WRITING.

3 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, WITHIN 30 DAYS  
4 AFTER THE MAILING DATE OF THE COMMISSIONER'S NOTICE OF ACTION, THE  
5 AGGRIEVED PARTY MAY REQUEST A HEARING.

6 (4) EXCEPT IN THE CASE OF A PREMIUM INCREASE OF 15% OR LESS FOR  
7 THE ENTIRE POLICY, THE COMMISSIONER SHALL:

8 (I) HOLD A HEARING WITHIN A REASONABLE TIME AFTER THE  
9 REQUEST FOR A HEARING; AND

10 (II) GIVE WRITTEN NOTICE OF THE TIME AND PLACE OF THE  
11 HEARING AT LEAST 10 DAYS BEFORE THE HEARING.

12 (5) A HEARING HELD UNDER THIS SUBSECTION SHALL BE CONDUCTED  
13 IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

14 (6) AT THE HEARING THE INSURER HAS THE BURDEN OF PROVING ITS  
15 PROPOSED ACTION TO BE JUSTIFIED AND, IN DOING SO, MAY RELY ONLY ON THE  
16 REASONS SET FORTH IN ITS NOTICE TO THE INSURED.

17 (I) (1) THE COMMISSIONER SHALL ISSUE AN ORDER WITHIN 30 DAYS AFTER  
18 THE CONCLUSION OF THE HEARING.

19 (2) IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE  
20 INSURER TO BE JUSTIFIED, THE COMMISSIONER SHALL:

21 (I) DISMISS THE PROTEST; AND

22 (II) ALLOW THE PROPOSED ACTION TO BE TAKEN ON THE LATER  
23 OF:

24 1. ITS PROPOSED EFFECTIVE DATE; AND

25 2. 30 DAYS AFTER THE DATE OF THE DETERMINATION.

26 (3) IF THE COMMISSIONER FINDS THE PROPOSED ACTION TO BE  
27 UNJUSTIFIED, THE COMMISSIONER:

28 (I) SHALL DISALLOW THE ACTION; AND

29 (II) MAY ORDER THE INSURER TO PAY REASONABLE ATTORNEY  
30 FEES INCURRED BY THE INSURED FOR REPRESENTATION AT THE HEARING AS THE  
31 COMMISSIONER CONSIDERS APPROPRIATE.

32 (J) THE COMMISSIONER MAY DELEGATE THE POWERS AND DUTIES OF THE  
33 COMMISSIONER UNDER THIS SECTION TO ONE OR MORE EMPLOYEES OR HEARING  
34 EXAMINERS.

1 (K) (1) IF THE COMMISSIONER DISALLOWS A PREMIUM INCREASE OF 15%  
2 OR LESS FOR THE ENTIRE POLICY, THE INSURER, WITHIN 30 DAYS AFTER THE  
3 DISALLOWANCE, SHALL:

4 (I) RETURN TO THE INSURED ALL DISALLOWED PREMIUM  
5 RECEIVED FROM THE INSURED; AND

6 (II) PAY TO THE INSURED INTEREST ON THE DISALLOWED  
7 PREMIUM RECEIVED FROM THE INSURED CALCULATED AT 10% PER ANNUM FROM  
8 THE DATE THE DISALLOWED PREMIUM WAS RECEIVED TO THE DATE THE  
9 DISALLOWED PREMIUM WAS RETURNED.

10 (2) IF AN INSURER FAILS TO RETURN ANY DISALLOWED PREMIUM OR  
11 FAILS TO PAY INTEREST TO AN INSURED IN VIOLATION OF PARAGRAPH (1) OF THIS  
12 SUBSECTION, THE INSURER IS IN VIOLATION OF THIS ARTICLE AND SUBJECT TO THE  
13 PENALTIES UNDER § 4-113(D) OF THIS ARTICLE.

14 (L) A PARTY TO A PROCEEDING UNDER THIS SECTION MAY APPEAL THE  
15 DECISION OF THE COMMISSIONER IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
17 all personal lines property and casualty insurance policies and contracts issued,  
18 delivered, or renewed on or after October 1, 2004.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2004.